

PROCEEDINGS OF THE COMMON COUNCIL
IN REGULAR SESSION
TUESDAY, FEBRUARY 28, 19 89

CITY OF FORT WAYNE, INDIANA
JOURNAL OF THE PROCEEDINGS
OF THE COMMON COUNCIL

THE COMMON COUNCIL OF THE CITY OF FORT WAYNE MET IN THE
COUNCIL CHAMBERS Tuesday EVENING February 28, 19 89 ,
IN Regular SESSION. PRESIDENT Charles B. Redd
IN THE CHAIR, COUNCIL ATTORNEY Stanley A. Levine , AND
Sandra E. Kennedy CLERK, AT THE DESK, PRESENT THE
FOLLOWING MEMBERS VIZ:

| | | |
|-------------------------|----------------------|--------------------------|
| BRADBURY <u>Present</u> | BURNS <u>Present</u> | GiaQUINTA <u>Present</u> |
| HENRY <u>Present</u> | LONG <u>Present</u> | REDD <u>Present</u> |
| SCHMIDT <u>Present</u> | STIER <u>Present</u> | TALARICO <u>Present</u> |

ABSENT: _____

COUNCILMEMBER: _____

THE MINUTES OF THE LAST REGULAR February 14, 1989

_____ 19____

SPECIAL _____, 19____

SESSION HAVING BEEN DELIVERED TO THE COUNCIL, WERE, ON MOTION,
APPROVED AND PUBLISHED.

THE COUNCIL THEN ADJOURNED.

CERTIFICATE

I hereby certify that I am the duly elected, acting and incumbent City Clerk of Fort Wayne, Indiana and as such the custodian of the records of the Common Council of said City and that the above and foregoing is the true, full and complete record of the proceedings of the Common Council of the City of Fort Wayne, Indiana for its Regular Session, held on Tuesday the 28th day of February, 1989, that the numbered ordinances and resolutions shown therein were duly adopted by said Common Council on said date and were presented by me to the Mayor of the City of Fort Wayne and were signed and approved or disapproved by said Mayor as and on the dates shown as to each such ordinance and resolution respectively; and that all such records, proceedings, ordinances, and resolutions remain on file and record in my office.

WITNESS my hand and the official seal of the City of Fort Wayne, Indiana, this 28th day of February, 1989.

S. E. K.
SANDRA E. KENNEDY, CITY CLERK



THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

9 February 1989

COMMUNICATIONS FROM THE CITY PLAN COMMISSION

The Common Council of the
City of Fort Wayne
City-County Building
One Main Street
Fort Wayne, IN 46802

Gentlemen and Mrs. Bradbury:

Attached hereto is the recommendation of the City Plan Commission on one (1) ordinance concerning the vacation of a dedicated utility easement.

The proposed ordinance is designated as:

BILL NO. G-89-01-24

Respectfully submitted,

CITY PLAN COMMISSION

Certified and signed this
9th day of February 1989.

Robert Hutner
Secretary

Division of Community Development & Planning

BRIEF TITLE

Utility Easement Vacation

APPROVAL DEADLINE

REASON

DETAILS

Specific Location and/or Address

North 7' of Lot 5 & South 7' of Lot 3
in Edgewood Industrial Park, Section "B".

Reason for Project

Future expansion of business.

Discussion (Including relationship to other Council actions)

23 January 1989 - Public Hearing

William Fagan, attorney, appeared before the Commission for the petitioners James E Loser & Wise Business Forms Inc. Mr. Fagan stated that the easement in question may not exist, it is not reflected on the plat. He stated that there is vague language in the restrictions that under one interpretation could create an easement. He stated that to the best of their knowledge there are no utilities in the easement with the exception of an I&M pole and that can be moved. He stated that I&M has no problem with the relocating of the pole, and has stated that in a letter to the Commission staff. He stated that they are requesting the vacation so that Mr. Loser can sell the north half of Lot 5 to Wise Business Forms, Inc., who intends to expand their building.

Larry Shine, attorney, representing Wise Business Forms, Inc., stated that this is a family owned business based in Butler Pennsylvania, which has been in

POSITIONS

RECOMMENDATIONS

Sponsor

City Plan Commission

Area Affected

City Wide

Other Areas

Applicants/
Proponents

Applicant(s)
James E. Loser
Wise Business Forms Inc
City Department

Other

Opponents

Groups or Individuals

Basis of Opposition

Staff
Recommendation
☒ For ☐ Against

Reason Against

Board or
Commission
Recommendation

By

☐ For ☐ Against
☐ No Action Taken

☒ For with revisions to conditions
 (See Details column for conditions)

CITY COUNCIL
ACTIONS
(For Council
use only)

☐ Pass ☐ Other
☐ Pass (as amended) ☐ Hold
☐ Council Sub. ☐ Do not pass

DETAILS

Fort Wayne for 8 years. It has a 38,000 sf ft plant presently in Edgewood Industrial Park and the intention is to vacate the easement and add an additional 19,000 sq ft.

There was no one else present who wished to speak in favor of or in opposition to the proposed vacation.

30 January 1989 - Business Meeting

Motion was made and seconded to return the ordinance to the Common Council with a DO PASS recommendation, subject to providing utility easements or relocations as needed.

Of the nine (9) members present eight (8) voted in favor of the motion one (1) did not vote.

Motion carried.

POLICY/ PROGRAM IMPACT

| | | |
|-------------------------------|-----------------------------|------------------------------|
| Policy or Program Change | <input type="checkbox"/> No | <input type="checkbox"/> Yes |
| | | |
| | | |
| | | |
| Operational Impact Assessment | | |
| | | |
| | | |
| | | |

(This space for further discussion)

Project Start

Date 22 December 1988

Projected Completion or Occupancy

Date 8 February 1989

Fact Sheet Prepared by

Patricia Biancaniello

Date 8 February 1989

Reviewed by

Date

Feb. 14, 1989

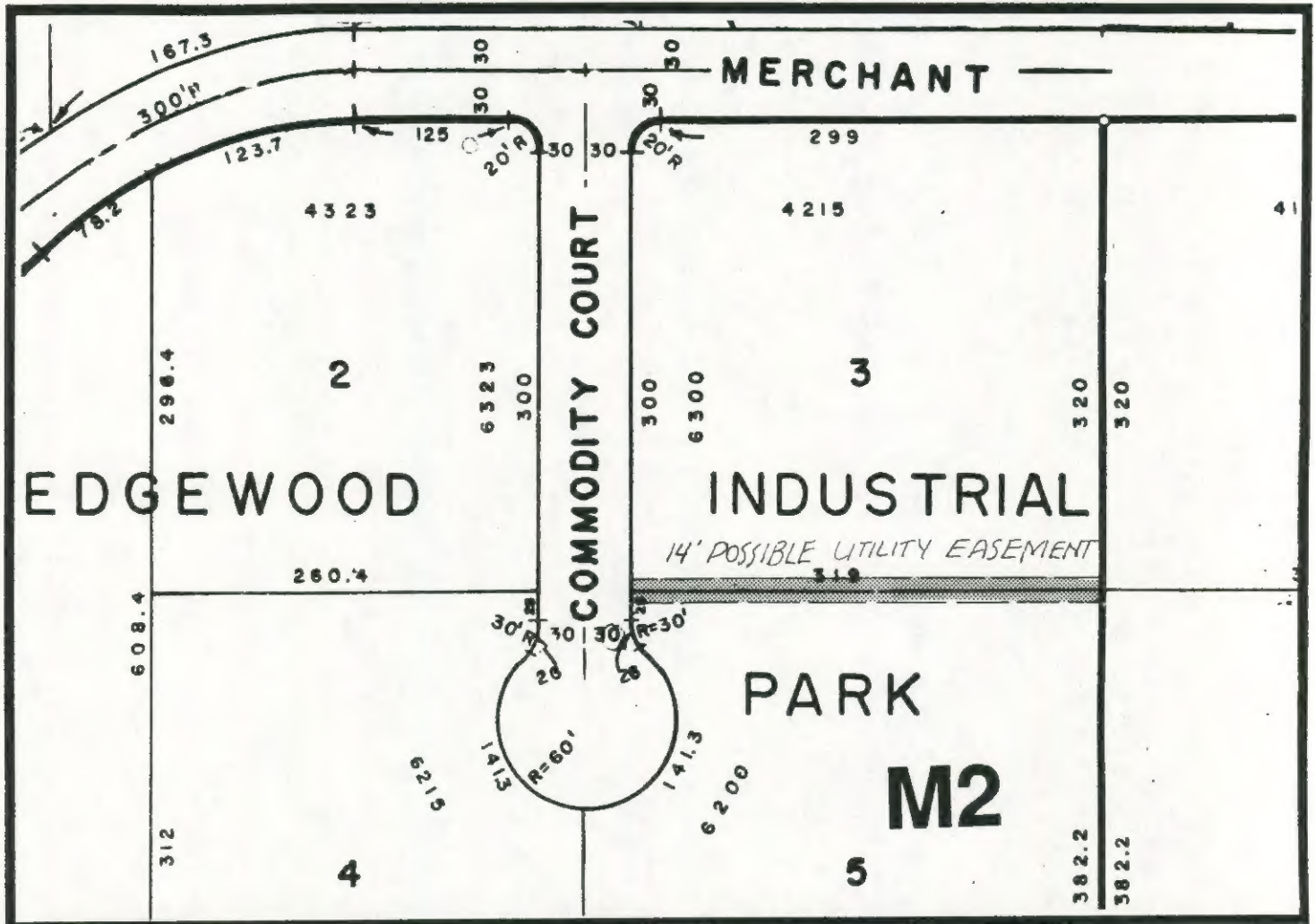
Reference or Case Number

VACATION PETITION #378

A PETITION TO VACATE THE DESCRIBED POSSIBLE PUBLIC UTILITY EASEMENT.

MAP NO. G-38

COUNCILMANIC DISTRICT NO. 3



ZONING:

M2 LIGHT INDUSTRIAL

LAND USE:

☐ COMMERCIAL

SCALE: 1"=100'

DATE: 1-5-89



James E. Loser and Wise Business Forms, Inc. request the vacation of a utility easement in Edgewood Industrial Park.

Location: 6300 Commodity Court
Legal: See File
Land Area: Approximately 0.102 acres
Zoning: M-2
Surroundings: North M-2 Industrial
South M-2 Industrial
East M-2 Industrial
West M-2 Industrial

Reason for Request: Future expansion of business.

Neighborhood Assoc.: None

Neighborhood Plan: No comment

Comprehensive Plan: No comment

Landscape: No comment

Planning Staff Discussion:

This petition has been filed in order to allow for future expansion of an existing business located on the site. Petitioners state that the actual existence of said easement is in question, as it does not show on the plat, however restrictive covenants imply that an easement does exist.

It does not appear that vacation of this easement would have any impact on adjacent property owners, or the public in general. There is a utility pole located in the eastern portion of the alleged easement, and the petitioners would have to make accommodations for that facility, which they are aware of and are willing to do.

We see no reason to object to the vacation. The pending sale of a portion of Lot 5 will allow the business on Lot 3 to expand, and that appears to be in the best interest of all concerned.

Recommendation: Conditional Approval, contingent upon the petitioners providing utility easements or relocations as needed.

1) Approval will not negatively impact any adjoining property owner.

2) Approval will allow for the expansion of an existing business.

3) Approval will not hinder public access or public interests in any way.

10

North seven (7) feet of Lot 5 and the South seven (7) feet of Lot 3 of Edgewood Industrial Park, Block "B", a subdivision in the Southeast One-Quarter of Section 17, Township 31 North, Range 12 East, Allen County, Indiana, according to the Plat recorded in Plat Book 34, page 47-48, in the records of the Recorder of Allen County, Indiana.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of the General Assembly of the State of Indiana, Indiana Code Section 36-7-4-12; and,

WHEREAS, notice of such public hearing has been given by due and proper publication thereof;

WHEREAS, said vacation of utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Pollution Control Engineering, Electrical Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne Board of Public Works that the vacation of said utility easement hereinbefore described conforms to the general policy and pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana.

BE IT FURTHER RESOLVED by the Board of Public Works that the vacation of said utility easement hereinbefore described be and the same is hereby approved subject to easements as required by all public utilities occupying and using said portion of public alley or part thereof for the vacation and operation of its utility facilities shall not be deprived of said use on account of these proceedings unless any said utilities shall file a written consent to said vacation.

STATE OF INDIANA)
) SS:
COUNTY OF ALLEN)

I, Anaeta S. Derheimer, Director of the Board of Public Works, do hereby certify that attached hereto is a full, true and correct copy of a resolution adopted by the Fort Wayne Board of Public Works at their meeting held February 8, 1989 and as same appears of record in the official records of the Board of Public Works.

DATED THIS 8th DAY OF February 1989

FORT WAYNE BOARD OF PUBLIC WORKS

Angela S. Derheimer
Angela S. Derheimer
Director of Public Works


C. David Silletto
Director of Administration & Finance

RESOLUTION

WHEREAS, JAMES E. LOSER AND WISE BUSINESS FORMS, INC., has petitioned and requested the Fort Wayne City Plan Commission to hold a public hearing upon the vacation of the following utility easement in Fort Wayne, Allen County, to-wit:

North seven (7) feet of Lot 5 and the South seven (7) feet of Lot 3 of Edgewood Industrial Park, Block "B", a subdivision in the Southeast One-Quarter of Section 17, Township 31 North, Range 12 East, Allen County, Indiana, according to the Plat recorded in Plat Book 34, page 47-48, in the records of the Recorder of Allen County, Indiana.

all in accordance with the terms of Section 44, Chapter 174 of the Acts of 1947, of the General Assembly of the State of Indiana, as amended by Section 3 of Chapter 385 of the Acts of 1963 of the General Assembly of the State of Indiana, Indiana Code, Section 36-7-4-12.

WHEREAS, notice of such public hearing has been given by due and proper publication thereof; and,

WHEREAS, said public hearing was held on January 23, 1989 at 7:00 P.M. and at such hearing there were no objections of any kind or character which should prevent the vacation of said utility easement.

WHEREAS, vacation of said utility easement has been routed through the following departments: Street Engineering, Traffic Engineering, Water Engineering, Water Pollution Control Engineering, Street Light Engineering, Park Board and through the Public Utility Companies.

NOW THEREFORE, BE IT RESOLVED by the Fort Wayne City Plan Commission that the vacation of said utility easement hereinbefore described conforms to the general policy pattern of development set out in the Master Plan of the City of Fort Wayne, Indiana;

BE IT FURTHER RESOLVED by the Fort Wayne City Plan Commission that the vacation of said utility easement hereinbefore described be and the same is hereby approved.

BE IT FURTHER RESOLVED no public utility occupying and using said utility easement or part thereof for the vacation and operation of its utility facilities shall be deprived of said use on account of these proceedings unless any said utility shall file a written consent to said vacation.

BE IT FURTHER RESOLVED that the action of the Fort Wayne City Plan Commission be forwarded to the proper governing body having jurisdiction of the vacation of said utility easement in Allen County, Indiana.

STATE OF INDIANA)


) SS:

COUNTY OF ALLEN)

I, Robert Hutner, Secretary of the Fort Wayne City Plan Commission, do hereby certify that attached is a full true and correct copy of a resolution adopted by the Fort Wayne City Plan Commission following a public hearing of said Commission held 30 January 1989, and as the same appears of record in the official records of said Plan Commission.

DATED THIS 9 DAY OF February 1989

FORT WAYNE CITY PLAN COMMISSION



Robert Hutner
Secretary

President of the Common Council
City of Fort Wayne, Indiana


Gentlemen and Mrs. Bradbury:

Attached herewith are authenticated copies of the Board of
Public Safety Regulatory Resolution Numbers:

6/89/E 7/89/D

For the purpose of enforcement, please make this
communication and the attached Regulatory Resolutions a
matter of record and incorporate them into the minutes of the
next Common Council Meeting.

Respectfully Submitted,

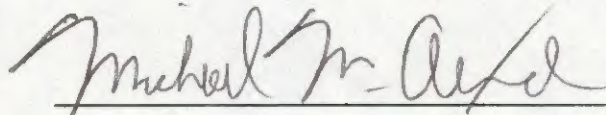


Chairman, Board of Safety

R E T U R N C E R T I F I C A T E

(Regulatory Resolution No. 6/89/E, 7/89/D).

I hereby certify that I did this 16th day of February, 1989 deliver to each, the City Traffic Engineer, the Chief of Police, the City Attorney, the City Clerk and the President of the Common Council of the City of Fort Wayne, Indiana respectively, a copy of the within Regulatory Resolution No. 6/89/E 7/89/D of the Board of Public Safety of the City of Fort Wayne, duly certified by me as Chairman of said Board, in accordance with the provisions of Section 17-4 of Chapter 17, of the Code of the City of Fort Wayne, 1986.



CHAIRMAN, Board of Safety

REGULATORY RESOLUTION NO. 6/89/E

(Adopted February 14, 1989)

WHEREAS, Section 17-4, Chapter 17 of the Code of the City of Fort Wayne, Indiana of 1986 authorizes the Board of Public Safety to make regulations to carry out its delegated authority thereunder; and,

WHEREAS, Section 17-4 of said chapter delegates to this Board authority to _____

STOP INTERSECTION

(EMERGENCY)

_____ ; and

WHEREAS, the City Traffic Engineer has, by written memorandum dated February 8, 1989, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board:

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA

That, pursuant to the authority delegated to this Board by Section 17-4 of Chapter 17 of the Code of the City of Fort Wayne, Indiana of 1986, it is hereby ordered, effective

February 14, 1989, and when signs are erected pursuant hereto giving notice thereof, that the FOLLOWING IS ESTABLISHED:

STOP INTERSECTION

(EMERGENCY)

Tacoma Avenue --stop--

for Pasadena Drive

REGULATORY RESOLUTION NO. 7/89/D

(Adopted February 14, 1989)

WHEREAS, Section 17-4, Chapter 17 of the Code of the City of Fort Wayne, Indiana of 1986 authorizes the Board of Public Safety to make regulations to carry out its delegated authority thereunder; and,

WHEREAS, Section 17-4 of said chapter delegates to this Board authority to

DELETE:

PREFERENTIAL INTERSECTION (DELEGATED)

; and

WHEREAS, the City Traffic Engineer has, by written memorandum dated February 8, 1989, submitted to this Board his advice with regard to the regulation hereinafter adopted, which written memorandum is on file in the office of this Board:

NOW THEREFORE, BE IT RESOLVED BY THE BOARD OF PUBLIC SAFETY OF THE CITY OF FORT WAYNE, INDIANA

That, pursuant to the authority delegated to this Board by Section 17-4 of Chapter 17 of the Code of the City of Fort Wayne, Indiana of 1986, it is hereby ordered, effective February 14, 1989, and when signs are erected pursuant hereto giving notice thereof, that the FOLLOWING IS ESTABLISHED:

DELETED:

PREFERENTIAL INTERSECTION (DELEGATED)

Pasadena Drive --preferential--

at Tacoma Avenue